

M4KHAZAP

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

19 Cr. 610 (JGK)

5 AVIRAM AZARI,

6 Plea

7 Defendant.

-----x

8 New York, N.Y.  
9 April 20, 2022  
10 10:40 a.m.

11 Before:

12 HON. JOHN G. KOELTL,

13 District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the  
17 Southern District of New York

OLGA ZVEROVICH

17 Assistant United States Attorney

18 MOSES & SINGER LLP

19 Attorneys for Defendant

BY: BARRY S. ZONE

20 Also Present:

21 Meir Turner, Interpreter (Hebrew)

22 Shane Crumlish, FBI Special Agent

23 Caroline Ingold, FBI Analyst

M4KHAZAP

(Case called)

MS. ZVEROVICH: Good morning, your Honor. Olga Zverovich, for the United States, and I'm joined by FBI special agent Shane Crumlish and FBI intelligence analyst Caroline Ingold.

THE COURT: Good morning.

MR. ZONE: Good morning, your Honor. Barry Zone for Mr. Azari. How are you today?

THE COURT: Good morning.

THE INTERPRETER: Hebrew interpreter for the court, Meir Turner.

THE COURT: Is your oath on file with the court?

THE INTERPRETER: Yes, your Honor.

THE COURT: Thank you.

I have a plea agreement.

MR. ZONE: Your Honor.

THE COURT: Yes.

MR. ZONE: May I just briefly?

THE COURT: Sure.

MR. ZONE: My client wishes to apologize, and I the same. In jail he developed a pretty severe gastrointestinal condition whereby every few seconds he burps. It's intrusive, so we just want to let the Court know that it's uncontrollable, involuntary. And of course, after we're done today, I'm going to ask that the Court order medical attention. For now, I just

M4KHAZAP

1 wanted to let you know what was going on here if you were  
2 interrupted. That's all, your Honor.

3 THE COURT: Oh, thank you. Of course I'll order  
4 medical attention for the defendant.

5 Is he all right to proceed today?

6 MR. ZONE: But for the burping, he is, your Honor.

7 THE COURT: OK. Could you keep your mask up. Thanks.

8 All right. I have a plea agreement dated December 6,  
9 2021, which indicates that the defendant wishes to enter a plea  
10 of guilty to Count One, Three, and Four of the indictment. The  
11 plea agreement is dated December 6, 2021. I've marked it as  
12 Court Exhibit 1. It appears to be signed by Mr. Azari and  
13 Mr. Zone today, April 20, 2022.

14 So, Mr. Zone, is that what the defendant wishes to do?

15 MR. ZONE: Yes, your Honor.

16 THE COURT: All right. Mr. Fletcher, please  
17 administer the oath to the defendant.

18 (Defendant sworn)

19 THE DEPUTY CLERK: Please state your full name for the  
20 record.

21 THE WITNESS: Aviram Azari.

22 THE DEPUTY CLERK: Please remain standing.

23 THE COURT: Actually, Mr. Azari, you can sit down.  
24 Make yourself comfortable. Bring the microphone towards you,  
25 speak into the microphone. Thank you.

M4KHAZAP

1           Mr. Azari, do you understand that you're now under  
2           oath and that if you answer any of my questions falsely, your  
3           false or untrue answers may later be used against you in  
4           another prosecution for perjury or making a false statement?

5           THE DEFENDANT: Yes.

6           THE COURT: Tell me your full name, please.

7           THE DEFENDANT: Aviram Azari.

8           THE COURT: How old are you?

9           THE DEFENDANT: 50.

10          THE COURT: 60?

11          THE INTERPRETER: 50.

12          THE COURT: 50.

13          How far did you go in school?

14          JUROR: 12th grade.

15          THE COURT: Are you a citizen of the United States?

16          THE DEFENDANT: No.

17          THE COURT: I see that you're using an interpreter.  
18          Do you fully understand the interpreter?

19          THE DEFENDANT: Yes.

20          THE COURT: Do you have any difficulty in  
21          communicating with the interpreter?

22          THE DEFENDANT: No.

23          THE COURT: Are you now or have you recently been  
24          under the care of a doctor or a psychiatrist?

25          THE DEFENDANT: No.

M4KHAZAP

1 THE COURT: Have you ever been treated or hospitalized  
2 for any mental illness or any type of addiction, including drug  
3 or alcohol addiction?

4 THE DEFENDANT: No.

5 THE COURT: In the past 24 hours, have you taken any  
6 drugs, medicine, or pills, or have you drunk any alcohol?

7 THE DEFENDANT: No.

8 THE COURT: Is your mind clear today?

9 THE DEFENDANT: Yes.

10 THE COURT: Are you feeling all right today?

11 THE DEFENDANT: Yes.

12 THE COURT: Do either counsel have any doubt as to the  
13 defendant's competence to plead at this time?

14 MS. ZVEROVICH: No, your Honor.

15 MR. ZONE: I have no doubt, your Honor.

16 THE COURT: Mr. Azari, Mr. Zone, your lawyer, has  
17 informed me that you wish to enter a plea of guilty to Counts  
18 One, Three, and Four of the indictment against you. Is that  
19 correct?

20 THE DEFENDANT: Correct.

21 THE COURT: Have you had a full opportunity to discuss  
22 your case with your lawyer and to discuss the consequences of  
23 entering a plea of guilty?

24 THE DEFENDANT: Yes, I understood.

25 THE COURT: Are you satisfied with your lawyer and his

M4KHAZAP

1 representation of you?

2 THE DEFENDANT: Yes.

3 THE COURT: On the basis of Mr. Azari's responses to  
4 my questions and my observations of his demeanor, I find that  
5 he is fully competent to enter an informed plea at this time.

6 Now, Mr. Azari, before I accept any plea from you, I'm  
7 going to be asking you certain questions. My questions are  
8 intended to satisfy me that you wish to plead guilty because  
9 you are, in fact, guilty and that you fully understand the  
10 consequences of your plea and, furthermore, that you are  
11 pleading guilty knowingly and voluntarily and that there is an  
12 independent basis in fact for your plea.

13 Do you understand that?

14 THE DEFENDANT: I understood.

15 THE COURT: I'm now going to describe to you certain  
16 rights that you have under the Constitution and laws of the  
17 United States, which rights you will be giving up if you enter  
18 a plea of guilty. Please listen to me very carefully. If  
19 there is anything that I say that you don't understand, please  
20 ask me to stop, and either I or Mr. Zone will explain it to you  
21 more fully.

22 All right?

23 THE DEFENDANT: Thank you. Yes.

24 THE COURT: Now, Mr. Azari, under the Constitution and  
25 laws of the United States, you have a right to a speedy and

M4KHAZAP

1 public trial by a jury on the charges against you which are  
2 contained in the indictment.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: If there were a trial, you would be  
6 presumed to be innocent, and the government would be required  
7 to prove you guilty by competent evidence and beyond a  
8 reasonable doubt. You would not have to prove that you were  
9 innocent at trial.

10 Do you understand that?

11 THE DEFENDANT: I understood.

12 THE COURT: If there were a trial, a jury composed of  
13 12 people selected from this district would have to agree  
14 unanimously that you were guilty.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: If there were a trial, you would have the  
18 right to be represented by a lawyer, and if you could not  
19 afford a lawyer, a lawyer would be provided to you free of  
20 cost.

21 Do you understand that?

22 THE DEFENDANT: I understood.

23 THE COURT: In fact, Mr. Azari, you have a right to be  
24 represented by a lawyer at trial and at every other stage of  
25 the proceedings. If you cannot afford a lawyer, a lawyer would

M4KHAZAP

1 be provided to you free of cost.

2 Do you understand that?

3 THE DEFENDANT: I understand.

4 THE COURT: If there were a trial, you would have the  
5 right to see and hear all of the witnesses against you, and  
6 your attorney could cross-examine them. You would have a right  
7 to have your attorney object to the government's evidence and  
8 offer evidence on your behalf if you so desired, and you would  
9 have the right to have subpoenas issued or other compulsory  
10 process used to compel witnesses to testify in your defense,  
11 and you would not be required to testify.

12 Do you understand all of that?

13 THE DEFENDANT: I understand.

14 THE COURT: If there were a trial, you would have the  
15 right to testify if you wanted to, but no one could force you  
16 to testify if you didn't want to, and furthermore, no inference  
17 or suggestion of guilt could be drawn if you chose not to  
18 testify at trial.

19 Do you understand that?

20 THE DEFENDANT: I understand.

21 THE COURT: Mr. Azari, do you understand each and  
22 every one of the rights that I described to you?

23 THE DEFENDANT: Correct, I have.

24 THE COURT: Do you have any questions about any of  
25 those rights?



M4KHAZAP

1 THE DEFENDANT: No.

2 THE COURT: Do you understand that by entering a plea  
3 of guilty today, you are giving up each and every one of those  
4 rights, that you were waiving those rights, and that you will  
5 have no trial?

6 THE DEFENDANT: Correct.

7 THE COURT: Do you understand that you can change your  
8 mind right now and refuse to enter a plea of guilty? You don't  
9 have to enter this plea if you don't want to for any reason at  
10 all.

11 Do you understand that completely?

12 THE DEFENDANT: I understand.

13 THE COURT: Now, Mr. Azari, you've received a copy of  
14 the indictment against you, is that correct?

15 THE DEFENDANT: Correct.

16 THE COURT: Has it been translated for you?

17 THE DEFENDANT: Yes.

18 THE COURT: Did you discuss it with your lawyer?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand what you were charged  
21 with in the indictment?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if you did not  
24 plead guilty, the government would be required to prove each  
25 and every part, or element, of the charges against you beyond a

M4KHAZAP

1 reasonable doubt at trial?

2 THE DEFENDANT: I understand, yes.

3 THE COURT: Let me go over with you Counts One, Three,  
4 and Four to make sure that you understand what you are charged  
5 with, what the government would be required to prove beyond a  
6 reasonable doubt at trial with respect to each of those  
7 charges, and what the maximum sentence is with respect to each  
8 of those charges.

9 So Count One charges a conspiracy to commit computer  
10 hacking. It charges -- the grand jury charges that from at  
11 least in or about November 2014 through at least in or about  
12 2019, Aviram Azari, the defendant, and others known and  
13 unknown, willfully and knowingly combined, conspired,  
14 confederated, and agreed together and with each other to commit  
15 an offense against the United States, to wit, computer hacking,  
16 in violation of Title 18, United States Code,  
17 Sections 1030(a)(2)(C) and 1030(c)(2)(B).

18 It was a part and an object of the conspiracy that  
19 Aviram Azari, the defendant, and others known and other known,  
20 would and did intentionally access a computer without  
21 authorization and exceed authorized access, and thereby obtain  
22 information from a protected computer, to wit, the contents of  
23 personal and business electronic accounts for purposes of  
24 commercial advantage and private financial gain, and the value  
25 of which information exceeded \$5,000, in violation of Title 18,

M4KHAZAP

1 United States Code, Sections 1030(a)(2)(C) and 1030(c)(2)(B)(i)  
2 and (ii).

3 In furtherance of the conspiracy and to effect the  
4 illegal objects thereof, the following overt acts, among  
5 others, were committed in the Southern District of New York and  
6 elsewhere:

7 In or about November 2014, two coconspirators not  
8 named herein, CC-1 and CC-2, caused to be sent emails to Aviram  
9 Azari, the defendant, stating that they have a team of email  
10 penetration experts, sophisticated developers for extracting  
11 files from computers who can get the backup of the email from  
12 any account and files from any Windows computer, and hoping  
13 that we can make some money working together.

14 The indictment goes on to list various other overt  
15 acts, including (b) in or about August 2016, CC-2 sent to a  
16 coconspirator not named herein, CC-3, an email containing  
17 letter invitations from CC-1 to Azari and CC-3 inviting them to  
18 India to conduct business meetings with our senior management.

19 (d) In or about June 2017, CC-1 sent Azari and CC-3 an  
20 email stating his team, after having sent phishing emails to  
21 Victim-2, an individual based in the Southern District of New  
22 York, had successfully hacked into two electronic accounts  
23 belonging to Victim-2 using a VPN server located in New York  
24 and attached screenshots of the attacked account.

25 Another overt, act in or about March 2018, CC-1 sent

M4KHAZAP

1 Azari and CC-3 an email stating his team, after having sent  
2 phishing emails to Victim-1, an individual based in the  
3 Southern District of New York, had successfully hacked into two  
4 electronic accounts belonging to Victim-4 using a VPN server  
5 located in New York, and attached screenshots of the hacked  
6 account. Various other overt acts are listed, all of this in  
7 violation of Title 18, United States Code, Sections 371.

8 Mr. Azari, do you understand that that's what you are  
9 charged with in Count One of the indictment?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that if you did not  
12 plead guilty, the government would be required to prove,  
13 first -- would be required to prove beyond a reasonable doubt  
14 at trial:

15 First, that two or more persons entered into the  
16 unlawful agreement charged in the indictment starting in or  
17 about November 2014;

18 Second, that you, the defendant, knowingly and  
19 willfully became a member of the conspiracy;

20 Third, that one of the members of the conspiracy  
21 knowingly committed at least one of the overt acts charged in  
22 the indictment; and

23 Fourth, that the overt act or acts which the jury  
24 found to have been committed was or were committed to further  
25 some objective of the conspiracy.

M4KHAZAP

1 Do you understand the government would be required to  
2 prove all of that beyond a reasonable doubt at trial?

3 THE DEFENDANT: Yes, I understand.

4 THE COURT: You understand that the maximum penalty  
5 for the crime charged in Count One is a maximum term of five  
6 years' imprisonment, a maximum term of three years' supervised  
7 release, a maximum fine of the greatest of \$250,000 or twice  
8 the gross pecuniary gain derived from the offense or twice the  
9 gross pecuniary loss to a person or persons other than yourself  
10 as a result of the offense, and a \$100 special assessment? Do  
11 you understand that's the maximum penalty for the crime charged  
12 in Count One of the indictment?

13 THE DEFENDANT: Yes.

14 THE COURT: Count Three of the indictment charges wire  
15 fraud. In Count Three, the grand jury charges that from at  
16 least on or about November 2014 through at least in or about  
17 2019, Aviram Azari, the defendant, willfully and knowingly,  
18 having devised and intending to devise a scheme, an artifice to  
19 defraud, and for obtaining money and property by means of false  
20 and fraudulent pretenses, representations, and promises, did  
21 transmit and cause to be transmitted by means of wire, radio,  
22 and television communication to interstate and foreign -- I'm  
23 sorry, in interstate and foreign commerce, writings, signs,  
24 signals, pictures, and sounds for the purpose of executing such  
25 scheme and artifice, to wit, Azari made and caused to be made

M4KHAZAP

1 false and fraudulent emails sent to hundreds of victims located  
2 in the Southern District of New York and elsewhere in order to  
3 trick the victims into entering their usernames and passwords  
4 to their electronic accounts into false and fraudulent websites  
5 controlled by Azari and his coconspirators for the purpose of  
6 obtaining unauthorized access to those electronic accounts, in  
7 violation of Title 18, United States Code, Sections 1343 and 2.

8 Do you understand that that's what you were charged  
9 with in Count Three of the indictment?

10 THE DEFENDANT: Correct.

11 THE COURT: Do you understand that if you did not  
12 plead guilty, the government would be required to prove beyond  
13 a reasonable doubt at trial that there was a scheme or artifice  
14 to defraud or to obtain money or property by materially false  
15 and fraudulent pretenses, representations, or promises as  
16 alleged in the indictment; second, that you, the defendant,  
17 knowingly and willfully participated in the scheme or artifice  
18 to defraud with knowledge of its fraudulent nature and with  
19 specific intent to defraud, or that you knowingly and  
20 intentionally aided and abetted others in the scheme; and  
21 third, that in execution of that scheme, you used or caused the  
22 use of interstate wires as specified in the indictment?

23 Do you understand that the government would be  
24 required to prove all of that beyond a reasonable doubt at  
25 trial?

M4KHAZAP

1 THE DEFENDANT: Yes.

2 THE COURT: Count Four of the indictment charges  
3 aggravated identity theft. The grand jury charges that from at  
4 least in or about November 2014 through at least in or about  
5 2019, Aviram Azari, the defendant, knowingly transferred,  
6 possessed, and used without lawful authority a means of  
7 identification of another person during and in relation to a  
8 felony violation enumerated in Title 18, United States Code,  
9 Sections 1028A(C), and aided and abetted the same, to wit,  
10 Azari possessed and used and aided and abetted the possession  
11 and use of login credentials including usernames and passwords  
12 of various individuals during and in relation to the wire fraud  
13 offenses charged in Counts Two and Three of this indictment, in  
14 violation of Title 18, United States Code, Sections 1028A(a)(1)  
15 and (b) and Section 2.

16 Do you understand that's what you are charged with in  
17 Count Four of the indictment?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that if you did not  
20 plead guilty, the government would be required to prove beyond  
21 a reasonable doubt at trial, first, that you, the defendant,  
22 knowingly used or aided and abetted in the use of a means of  
23 identification of another person; second, that you, the  
24 defendant, used or aided and abetted in the use of the means of  
25 identification during and in relation to the offense of wire

M4KHAZAP

1 fraud charged in Count Three of the indictment; and third, that  
2 you, the defendant, acted without lawful authority?

3 Do you understand that the government would be  
4 required to prove all of that beyond a reasonable doubt at  
5 trial?

6 THE DEFENDANT: Correct.

7 THE COURT: Do you understand that the maximum penalty  
8 for the crime charged in Count Four of the indictment is a  
9 mandatory minimum term of two years' imprisonment, which must  
10 be imposed consecutively to any other sentence; a maximum term  
11 of one-year supervised release; a maximum fine of the greatest  
12 of \$250,000 or twice the gross pecuniary gain derived from the  
13 offense or twice the gross pecuniary loss to persons other than  
14 yourself as a result of the offense; and a \$100 mandatory  
15 special assessment?

16 Do you understand that's the maximum penalty for the  
17 crime charged in Count Four of the indictment?

18 THE DEFENDANT: Yes.

19 MS. ZVEROVICH: Your Honor, I'm sorry to interrupt. I  
20 believe your Honor did not advise the defendant yet of the  
21 maximum penalties for Count Three.

22 THE COURT: Thank you. I was just looking at my  
23 notes, and I think you're absolutely right.

24 Mr. Azari, with respect to Count Three, the maximum  
25 sentence for Count Three is a maximum term of 20 years'



M4KHAZAP

1 imprisonment, a maximum term of three years' supervised  
2 release, a maximum fine of the greatest of \$250,000 or twice  
3 the gross pecuniary gain derived from the offense or twice the  
4 gross pecuniary loss to a person or persons other than yourself  
5 as a result of the offense, and a \$100 mandatory special  
6 assessment.

7 Do you understand that's the maximum penalty for the  
8 crime charged in Count Three of the indictment?

9 THE DEFENDANT: Correct.

10 THE COURT: Do you understand that when I talk about  
11 supervised release, supervised release means that you will be  
12 subject to monitoring when you are released from prison, and  
13 the monitoring is to be under terms and conditions which could  
14 lead to re-imprisonment without a jury trial if you violate  
15 them?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that if you violated the  
18 terms of supervised release and were sentenced to prison, you  
19 could be sentenced to prison for the entire term of supervised  
20 release without any credit for any time you had already spent  
21 on supervised release?

22 THE DEFENDANT: OK.

23 THE COURT: Do you also understand that as part of  
24 your sentence, I can also order restitution to any person  
25 injured as a result of your criminal conduct?

M4KHAZAP

1 THE DEFENDANT: Yes.

2 THE COURT: The indictment also includes forfeiture  
3 allegations.

4 THE INTERPRETER: The interpreter's mic has died. If  
5 your Honor could bear with the interpreter for one second.  
6 Thank you, your Honor.

7 THE COURT: All right.

8 THE INTERPRETER: The interpreter can hear now.

9 THE COURT: OK. Mr. Azari, the indictment includes  
10 forfeiture allegations. It provides that, as a result of  
11 committing the offense alleged in Count One of the indictment,  
12 Aviram Azari, the defendant, shall forfeit to the United  
13 States, pursuant to Title 18, United States Code,  
14 Sections 1030(i), any and all property, real and personal,  
15 constituting or derived from any proceeds obtained directly or  
16 directly as a result of said offense, and any and all personal  
17 property that was used or intended to be used to commit or to  
18 facilitate the commission of said offense, including but not  
19 limited to a sum of money in United States currency  
20 representing the amount of proceeds traceable to the commission  
21 of said offense.

22 And as a result of committing the offenses alleged in  
23 Counts Two and Three of this indictment, Aviram Azari, the  
24 defendant, shall forfeit to the United States, pursuant to  
25 Title 18, United States Code, Section 981(a)(1)(C), and Title

M4KHAZAP

1 28, United States Code, Section 2461(c), any and all property,  
2 real and personal, that constitutes or is derived from proceeds  
3 traceable to the commission of the said offenses, including but  
4 not limited to a sum of money in United States currency  
5 representing the amount of proceeds traceable to the commission  
6 of said offenses.

7 And if any of that above-described forfeitable  
8 property, as a result of any act or omission of the defendant,  
9 cannot be located or has been transferred or placed beyond the  
10 jurisdiction of the court or substantially diminished in value  
11 or commingled with other property, then it is the intent of the  
12 government to have you forfeit any other property that you have  
13 up to the value of the forfeitable property.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: So do you understand that as a result of  
17 your conviction, I can order forfeiture?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, Mr. Azari, you're pleading guilty to  
20 three separate offenses, and you'll be separately sentenced on  
21 each of those offenses. I can order that the penalties, the  
22 sentences for those offenses, be served concurrently, that is,  
23 at the same time, or consecutively, that is, one right after  
24 the other. Except with respect to Count Four, I must order  
25 that at least two years of that sentence, which is a mandatory

M4KHAZAP

1 two years, be served consecutively to the terms of imprisonment  
2 on the other counts.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: So you're facing a total of 27 years'  
6 imprisonment with a mandatory minimum term of two years'  
7 imprisonment, which must be served consecutively to any other  
8 sentence.

9 Let me put it a little differently. You're facing a  
10 total maximum term of imprisonment on Counts One and Three of  
11 25 years, plus a mandatory minimum term of two years'  
12 imprisonment on Count Four, which must be served consecutively  
13 to the sentence on Counts One and Three.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you also understand that if I accept  
17 your guilty plea and adjudge you guilty, that adjudication may  
18 deprive you of valuable civil rights, such as the right to  
19 vote, the right to hold public office, the right to serve on a  
20 jury, and the right to possess any kind of firearm? Do you  
21 understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, you've told me that you're not a  
24 citizen of the United States. Do you understand that your  
25 conviction can be used to remove you from the United States, to

M4KHAZAP

1 deny you citizenship, and to deny you admission to the United  
2 States in the future? Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Have you consulted with your lawyer about  
5 the immigration consequences of your guilty plea?

6 THE DEFENDANT: Yes.

7 THE COURT: Now, Mr. Azari, under current law there  
8 are sentencing guidelines that judges must consult in  
9 determining your sentence. You've spoken to Mr. Zone about the  
10 sentencing guidelines, haven't you?

11 THE INTERPRETER: The interpreter missed the last  
12 sentence, your Honor.

13 THE COURT: I'm sorry?

14 THE INTERPRETER: The interpreter missed the last  
15 sentence.

16 THE COURT: OK. Mr. Azari, you've spoken to Mr. Zone  
17 about the sentencing guidelines, haven't you?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that I, as the  
20 sentencing court, will not be able to determine your guideline  
21 sentence until after the probation department has completed a  
22 presentence report and after you and your lawyer and the  
23 government have had an opportunity to review that report and to  
24 challenge anything contained in that report and to bring those  
25 challenges to my attention? Do you understand that?

M4KHAZAP

1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that even after  
3 it's determined what the basic guideline sentencing range is in  
4 your case, I have the authority, in some circumstances, to  
5 depart, upward or downward, from the sentence that is otherwise  
6 called for by the sentencing guidelines? Do you understand  
7 that?

8 THE DEFENDANT: Yes.

9 THE COURT: Even after I've determined that guideline  
10 sentencing range, taking into account any upward or downward  
11 departures, I must then consider other statutory factors in  
12 order to arrive at a final conclusion as to what the  
13 appropriate and reasonable sentence is in your case.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you also understand that if you are  
17 sentenced to prison, parole has been abolished, and you'll not  
18 be released any earlier on parole?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that if your lawyer or  
21 anyone else has attempted to estimate or predict what your  
22 sentence will be, that their estimate or prediction could be  
23 wrong?

24 THE DEFENDANT: Yes.

25 THE COURT: No one, Mr. Azari -- not your lawyer, not

M4KHAZAP

1 the government, no one -- can or should give you any assurance  
2 of what your sentence will be since that sentence can only be  
3 determined after the probation department has completed the  
4 presentence report, after I have ruled on any challenges to the  
5 report, and after I have determined what the appropriate and  
6 reasonable sentence is in your case.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you also understand that even if your  
10 sentence is different from what your lawyer or anyone else told  
11 you that it might be or if it's different from what you expect  
12 it to be, you will still be bound by your guilty plea, and you  
13 will not be allowed to withdraw your plea of guilty? Do you  
14 understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Now, Mr. Azari, I've been given the plea  
17 agreement which you heard me talk about at the outset, the  
18 December 6, 2021, letter to Mr. Zone from the government. I've  
19 marked it as Court Exhibit 1. It appears to be signed by two  
20 lawyers for the government and then signed by you and Mr. Zone  
21 today, April 20, 2022.

22 Have you signed this plea agreement?

23 THE DEFENDANT: Yes.

24 THE COURT: Did you read the agreement before you  
25 signed it?

M4KHAZAP

1 THE DEFENDANT: Yes.

2 THE COURT: Was it translated for you before you  
3 signed it?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you discuss it with your lawyer before  
6 you signed it?

7 THE DEFENDANT: Yes.

8 THE COURT: Did you understand the agreement before  
9 you signed it?

10 THE DEFENDANT: Yes.

11 THE COURT: Does this letter agreement constitute your  
12 complete and total understanding of the entire agreement  
13 between the government, your lawyer, and you?

14 THE DEFENDANT: Yes.

15 THE COURT: Is everything that you understand about  
16 your plea and your sentence contained in this agreement?

17 THE DEFENDANT: Yes.

18 THE COURT: Has anything been left out?

19 THE DEFENDANT: Not to the best of my knowledge, no.

20 THE COURT: Has anyone offered you any inducements or  
21 threatened you or forced you to plead guilty or to enter into  
22 this plea agreement?

23 THE DEFENDANT: No, no one did.

24 THE COURT: There is a provision in the plea agreement  
25 that provides, on page 6, it is agreed that the defendant will



M4KHAZAP

1 not file a direct appeal nor bring a collateral challenge,  
2 including but not limited to an application under Title 28,  
3 United States Code, Sections 2255 and/or Section 2241, of any  
4 sentence within or below the stipulated guidelines range of 132  
5 to 159 months' imprisonment.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that if I sentence you  
9 to 159 months' imprisonment or less, you have given up your  
10 right to appeal any such sentence or to challenge any such  
11 sentence in any proceeding, including any habeas corpus  
12 proceeding?

13 THE DEFENDANT: Yes.

14 THE COURT: The paragraph also provides that the  
15 defendant further agrees not to appeal or to bring a collateral  
16 challenge of any term of supervised release that is less than  
17 or equal to the statutory maximum. The defendant also agrees  
18 not to appeal or bring a collateral challenge of any fine that  
19 is less than or equal to \$300,000. And the defendant also  
20 agrees not to appeal or bring a collateral challenge of any  
21 special assessment that is less than or equal to \$300.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. By the way, I already advised  
25 you that I can order that the sentences be served concurrently,

M4KHAZAP

1 that is, at the same time, or consecutively, that is, one right  
2 after the other, except for the mandatory two years on Count  
3 Four which must be served consecutively. I can also order that  
4 the fines be added together, and I must order that the special  
5 assessments be added together. So you're facing a special  
6 assessment of \$300.

7 Do you understand that?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: The plea agreement also provides that, on  
10 page 7, the defendant recognizes that if he is not a citizen of  
11 the United States, and you say you are not, his guilty plea and  
12 conviction make it very likely that his removal from the United  
13 States is presumptively mandatory and that, at a minimum, he is  
14 at risk of being removed or suffering other adverse immigration  
15 consequences.

16 It goes on to provide that it is agreed that the  
17 defendant will have no right to withdraw his guilty plea based  
18 on any actual or perceived adverse immigration consequences,  
19 including removal or denaturalization resulting from the guilty  
20 plea and conviction.

21 It is further agreed that the defendant will not  
22 challenge any conviction or sentence on direct appeal or  
23 through litigation under Title 28, United States Code,  
24 Sections 2255 and/or Section 2241 on the basis of any actual or  
25 perceived adverse immigration consequences, including removal

M4KHAZAP

1 or denaturalization resulting from his guilty plea and  
2 conviction.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you also understand that the Court is  
6 not bound by the plea agreement or by any provision in the plea  
7 agreement? The Court must make an independent determination of  
8 the appropriate sentence in your case, and even if that  
9 sentence differs from anything that's contained in the plea  
10 agreement, you will still be bound by your guilty plea, and you  
11 will not be allowed to withdraw your plea of guilty.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Zone, do you know of any valid defense  
15 that would prevail at the trial of Mr. Azari?

16 MR. ZONE: No, your Honor.

17 THE COURT: Do you know of any reason why Mr. Azari  
18 should not be permitted to plead guilty?

19 MR. ZONE: I do not.

20 THE COURT: Mr. Azari, please tell me what you did in  
21 connection with the crimes to which you are entering a plea of  
22 guilty. Go slower.

23 THE DEFENDANT: In the period between November 2014  
24 and in and including 2019, I, together with others, managed an  
25 investigation firm in Israel. One of the services that we

M4KHAZAP

1 provided to our customers was hacking into electronic email  
2 accounts. In order to provide this service, we connected with  
3 a company that is located in India that specializes in this,  
4 and this company, in accordance with our request, attempted to,  
5 and in certain instances even succeeded, to enter -- to hack  
6 into email addresses of private individuals or companies, all  
7 this in accordance with the customer's request.

8 Some of the details -- some of the private individuals  
9 and the companies are located in the Southern District of New  
10 York and in other places.

11 I was aware that the Indian company obtained private  
12 data of the account holders, such as the username and password.

13 THE COURT: I'm sorry. Hold on. Hold on.

14 THE DEFENDANT: And password.

15 THE COURT: I'm sorry. Was using it and?

16 THE INTERPRETER: "Such information as the username  
17 and the password."

18 THE COURT: Go ahead.

19 THE DEFENDANT: And even used them as in phishing, and  
20 did so by sending emails, phishing emails, which was able to  
21 obtain private data when the link was pressed. The person  
22 pressed on the link; that data came up.

23 The customers paid me for the services that we  
24 provided, including hacking the emails, and I in turn paid the  
25 Indian company. I'm aware that the value of the hacking into

M4KHAZAP

1 the email accounts was over \$5,000.

2 THE COURT: When you say that you were "aware that the  
3 value of hacking into the email accounts was over \$5,000," does  
4 that mean over \$5,000 was taken from the rightful owners of  
5 those email accounts without their permission?

6 THE DEFENDANT: No.

7 THE COURT: What do you mean, then, that the value of  
8 the hacking was over \$5,000?

9 MR. ZONE: May I have a moment, your Honor?

10 THE COURT: Yes.

11 (Counsel conferred with defendant)

12 THE DEFENDANT: What I mean is the following: Our  
13 work was worth more than \$5,000. The value of our work was in  
14 excess of \$5,000.

15 THE COURT: What was the purpose of all of this  
16 hacking for which the value of your work was over \$5,000?

17 THE INTERPRETER: The interpreter couldn't hear.

18 THE DEFENDANT: The intention, the goal, was to obtain  
19 data and evidence, and the customers paid more than \$5,000 for  
20 this service.

21 THE COURT: You're pleading guilty to at least a count  
22 of wire fraud and conspiracy to commit wire fraud, which was a  
23 scheme, an artifice to defraud, and for obtaining money and  
24 property by means of false and fraudulent pretenses,  
25 representations, and promises. So you've explained to me the

M4KHAZAP

1     hacking scheme in which you were able to get unauthorized  
2     access into people's email accounts and how customers paid you  
3     for that service.

4             The question that I'm asking is what was the money and  
5     property that was obtained by this hacking?

6             MR. ZONE: Your Honor.

7             THE COURT: Yes.

8             MR. ZONE: May I have a word with the assistant for  
9     one second?

10            THE COURT: Sure.

11            (Counsel confer)

12            MS. ZVEROVICH: Your Honor, if I may, with the Court's  
13     permission, just proffer kind of the scheme with respect to the  
14     wire fraud charge in Count Three, if that would be helpful?

15            THE COURT: Sure.

16            MS. ZVEROVICH: Your Honor, the scheme as charged is  
17     that Mr. Azari caused the sending of false and fraudulent  
18     phishing emails to multiple different victims, including  
19     victims in the SDNY. Those phishing emails were fraudulent,  
20     and they induced the victims to click on those links, put in  
21     their usernames and passwords, and as a result of that,  
22     Mr. Azari and his coconspirators were able to gain access to  
23     the contents of those email and other electronic accounts  
24     belonging to the victims. That's the property of which the  
25     victims were defrauded, which have value because clients of

M4KHAZAP

1 Mr. Azari paid substantial sums of money for that service.

2 THE COURT: So the property was the contents of the  
3 email accounts?

4 MS. ZVEROVICH: Correct, your Honor.

5 THE COURT: All right. Mr. Azari, you've said that  
6 the victims were -- some victims were located in the Southern  
7 District of New York. You understand the Southern District of  
8 New York includes Manhattan, the Bronx, Westchester, and some  
9 northern counties, is that right?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Does the government think that  
12 I should ask any other questions of the defendant?

13 MS. ZVEROVICH: No, your Honor. The government would  
14 just proffer, and I believe Mr. Zone would stipulate, that the  
15 computers that were hacked as part of the scheme were protected  
16 computers within the meaning of the statute, which is 18 U.S.C.  
17 Section 1030; and further, with respect to the wire fraud  
18 charge, that the scheme involved the use of multiple interstate  
19 and foreign wires, including wires that passed through the  
20 Southern District of New York.

21 THE COURT: All right. Mr. Zone, do you agree with  
22 that and does Mr. Azari agree with that?

23 MR. ZONE: Yes, your Honor.

24 THE COURT: Mr. Azari, do you agree with that?

25 THE DEFENDANT: Yes.

M4KHAZAP

1 THE COURT: OK. When you did the acts that you've  
2 described to me, did you know that what you were doing was  
3 wrong and illegal?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. Will the government summarize  
6 for me what the evidence would be at trial.

7 MS. ZVEROVICH: Yes, your Honor. At trial the  
8 government would show the following:

9 The government would show that since at least November  
10 of 2014 and through 2019, the defendant, Mr. Azari, and other  
11 coconspirators, engaged in a widespread spear phishing and  
12 computer-intrusion scheme which targeted hundreds of victims,  
13 including victims who are located in the Southern District of  
14 New York.

15 Azari, with the assistance of others, ran an  
16 Israeli-based private intelligence and investigation firm. And  
17 the government would show that in order to gather intelligence  
18 on behalf of their paying clients, Mr. Azari and other  
19 coconspirators employed the services of various hacking groups,  
20 including a group that was based in India, in order to gain  
21 unauthorized access to email and other electronic accounts  
22 controlled by specified victims.

23 The government would show that Mr. Azari and others  
24 were paid by their clients for these hacking services and that,  
25 in turn, Mr. Azari paid the hackers.



M4KHAZAP

1           The government would show that as part of the scheme,  
2           in order to gain access to the victim's accounts, the hackers  
3           sent phishing emails to the victims in order to trick the  
4           victims into entering their usernames and passwords to the  
5           victims' electronic accounts into false and fraudulent websites  
6           that were controlled by members of the conspiracy. The  
7           conspirators would then use the stolen login credentials in  
8           order to access the victims' electronic accounts without  
9           authorization.

10           At trial the government would prove each of the overt  
11           acts that are listed in the indictment, among others.

12           At trial the government's evidence would include email  
13           search warrant evidence showing that Mr. Azari tasked specific  
14           hackers with hacking electronic accounts of victims, as well as  
15           communications among Azari and his coconspirators in  
16           furtherance of those efforts, and communications among the  
17           hackers discussing progress on the hacking of particular  
18           accounts, including for victims located in the Southern  
19           District of New York.

20           The government would also introduce email search  
21           warrant evidence showing that Azari and others used stolen  
22           usernames and passwords of actual persons in order to gain  
23           unauthorized access to their electronic accounts in furtherance  
24           of the offenses in Counts One and Three of the indictment.

25           The government would also introduce evidence,

M4KHAZAP

1 including email search warrant evidence, showing that the  
2 purpose of the hacking was to get -- was intelligence-gathering  
3 on behalf of paying clients of Mr. Azari, and that Mr. Azari  
4 would in turn pay the hackers who completed the work.

5 And at trial the government would introduce invoices,  
6 as well as wire transfer confirmations, which show that the  
7 work that the hackers did on behalf of Mr. Azari and other  
8 coconspirators resulted in payments in excess of \$5,000.

9 THE COURT: Would the government's evidence establish  
10 the defendant's guilt of Counts One, Three, and Four of the  
11 indictment beyond a reasonable doubt?

12 MS. ZVEROVICH: Yes, your Honor.

13 THE COURT: All right. Mr. Azari, one question I  
14 didn't ask you, in connection with the conspiracy in Count One,  
15 the indictment lists numerous overt acts in furtherance of the  
16 conspiracy. To take one, in paragraph I it says: In or about  
17 July 2018, CC-1 sent Azari and CC-3 emails stating that his  
18 team, after having sent phishing emails to Victim-6, an  
19 individual based in the Southern District of New York, had  
20 successfully hacked into four electronic accounts belonging to  
21 Victim-6 using a VPN server located in New York, and attached  
22 screenshots of the hacked accounts.

23 Did that happen? Did you receive that email?

24 MR. ZONE: Your Honor, he was just trying to read  
25 along and lost you.

M4KHAZAP

1 THE COURT: Yes.

2 MR. ZONE: So --

3 THE COURT: Paragraph I, it says: In or about  
4 July 2018, Coconspirator-1 sent Azari and Coconspirator-3  
5 emails stating his team, after having sent phishing emails to  
6 Victim-6, an individual based in the Southern District of New  
7 York, had successfully hacked into four electronic accounts  
8 belonging to Victim-6 using a VPN server located in New York,  
9 and attached screenshots of the hacked accounts.

10 Did that happen?

11 THE DEFENDANT: Yes.

12 THE COURT: OK. Mr. Azari, how do you plead to the  
13 charge against you in Count One of the indictment, guilty or  
14 not guilty?

15 THE DEFENDANT: I'm guilty, your Honor.

16 THE COURT: Mr. Azari, how do you plead to the charge  
17 against you in Count Three of the indictment, guilty or not  
18 guilty?

19 THE DEFENDANT: Guilty.

20 THE COURT: Mr. Azari, how do you plead to the charge  
21 against you in Count Four of the indictment, guilty or not  
22 guilty?

23 THE DEFENDANT: Guilty.

24 THE COURT: Are you pleading guilty voluntarily and of  
25 your own free will?

M4KHAZAP

1 THE DEFENDANT: I'm doing so voluntarily.

2 THE COURT: And of your own free will?

3 THE DEFENDANT: Yes, free will.

4 THE COURT: Are you pleading guilty because you are,  
5 in fact, guilty?

6 THE DEFENDANT: Correct.

7 THE COURT: Before I finally accept the defendant's  
8 plea, Mr. Zone, do you want me to ask any other questions of  
9 the defendant?

10 MR. ZONE: I think you've covered everything, your  
11 Honor.

12 THE COURT: Do you know of any reason I should not  
13 accept his plea?

14 MR. ZONE: No, I don't.

15 THE COURT: All right. Before I finally accept the  
16 defendant's plea, does the government want me to ask any other  
17 questions of the defendant?

18 MS. ZVEROVICH: No, your Honor.

19 THE COURT: Does the government know of any reason  
20 that I should not accept his plea?

21 MS. ZVEROVICH: No, your Honor.

22 THE COURT: Mr. Azari, because you acknowledge that  
23 you are guilty as charged in Counts One, Three, and Four of the  
24 indictment, because I find that you know your rights and are  
25 waiving them knowingly and voluntarily, because I find that

M4KHAZAP

1 your plea is entered knowingly and voluntarily and is supported  
2 by an independent basis in fact containing each of the  
3 essential elements of the offenses, I accept your guilty plea,  
4 and I adjudge you guilty of the offenses to which you have  
5 pleaded.

6 Mr. Azari, the probation department will now prepare  
7 the presentence report to assist me in sentencing you. You'll  
8 be interviewed by the probation department. It's very  
9 important that the information you provide to the probation  
10 department be truthful and accurate. The presentence report is  
11 very important to me in my decision as to what your sentence  
12 will be. You and your lawyer will have the opportunity to  
13 review the presentence report, to challenge anything contained  
14 in the report, and then to speak on your behalf at sentencing.

15 Mr. Fletcher.

16 THE DEPUTY CLERK: Thursday, July 21, at 11:30.

17 THE COURT: Sentencing July 21 at 11:30, is that  
18 satisfactory to both sides?

19 MR. ZONE: Yes, your Honor.

20 MS. ZVEROVICH: Yes, your Honor.

21 THE COURT: OK. I'd ask for the defense submission at  
22 least 14 days before sentence and the government submission  
23 eight days before sentence.

24 I will also enter an order asking the Bureau of  
25 Prisons to make sure to take care of the defendant's medical

M4KHAZAP

1 needs.

2 MR. ZONE: Yes, please, your Honor. We've done  
3 everything possible to try to get him help. They took him to  
4 the hospital, and then they took him back. It's just -- all of  
5 my meetings with him have been like this. It's been very  
6 frustrating, and he's in a -- it's real uncomfortable. So if  
7 you could order that --

8 THE COURT: Absolutely, absolutely. I'll ask for a  
9 report from the Bureau of Prisons with respect to the  
10 defendant's medical care.

11 MR. ZONE: Very grateful for that, your Honor.

12 THE COURT: I'll also direct the government to make  
13 inquiries of the MDC to find out what's happening with respect  
14 to the defendant's medical care and to report back.

15 MS. ZVEROVICH: Understood, your Honor.

16 THE COURT: Government should report back by Monday,  
17 but I'll still enter an order in any event.

18 All right. Anything further?

19 MS. ZVEROVICH: Nothing else from the government.  
20 Thank you, your Honor.

21 MR. ZONE: Nothing from the defense, your Honor.  
22 Thank you.

23 THE COURT: OK. I'm returning Court Exhibit 1 to the  
24 government.

25 (Adjourned)